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IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No. 547

THOMAS J. KEHOE, also known as THOMAS KEHOE,
Petitioner,

v.

CHARLES C. BOYLE, Executor of the Last Will and Testament of MICHEL KEHOE, also known as M. E. KEHOE, ET AL., *Respondents*.

PETITION FOR REHEARING OF ORDER DENYING CERTIORARI

Petition respectfully requests that this Court grant Rehearing of its Order, dated January 18, 1965, wherein Certiorari was denied, and that the Court now grant Certiorari.

The Petition thereto, your petitioner hereby presents the following intervening circumstances and substantial facts and grounds not previously presented:

Letters of Administration were applied for on January 10, 1965, issued January 18, 1965, to William Francis Molony, 435 Commercial Square, Cincinnati, Ohio, for the estate of Lucy Kehoe, (an older sister of Michael E. Kehoe) who died on May 27, 1951, leaving a sizeable estate not heretofore probated, which, your petitioner believes, consisted of:

(a) a partial ownership, amounting to at least $12,000.00, in United States Treasury and Savings Bonds, together with cash deposited in banks in Kentucky and in Ohio, which, through conspiracy, fraud and deceit, turned up in the estate of Michael E. Kehoe; and

(b) an interest amounting to at least $5,000.00 in numerous real estate holdings, as mentioned in the January 28, 1965 report, "To the Legatees of the Estate of Michael E. Kehoe, deceased," by Charles C. Boyle, Attorney, 601-2 Schmidt Building, Cincinnati 2, Ohio.

Your Petitioner contends that, during the course of the pending probate of the Estate of Lucy Kehoe, such facts will be developed and conclusively prove, as will establish that through a combination of circumstances and persons, some unknown to your Petitioner at this time, a conspiracy was effected whereby the rightful and legal heirs were deprived of property which would otherwise have accrued to them.

Your petitioner believes that during the course of the hearings as to the administration of the Estate of

Lucy Kehoe, it will be revealed that as to the disposition of her assets and those of her surviving sisters and brother, there was, behind the scenes, tainted with fraud and deceit, a series of propitiations toward the Roman Catholic Church. This was because of their fears of not getting into Heaven, encouraged by the greed and covetness of certain members of the Roman Catholic Church, with the result that neighbors and friends were apprehensive about testifying as to the mental state of Michael E. Kehoe. during some 15 years preceding his death, which would probably otherwise have been established before the Court of Common Pleas of Cincinnati, Ohio, and thus have vitiated his unnatural purported will, primarily for the benefit of Roman Catholic institutions.

In this connection, your petitioner now recalls, for example, that his attorney in Cincinnati, Ohio, Mr. John Wilke, himself an adherent of the Roman Catholic Church, made a statement to your petitioner, after the petition for contesting the will of Michael E. Kehoe, had been signed by your petitioner—which I then thought was stated jokingly—to the effect that your petitioner would most likely be contacted by the Church before he got back to Washington and would probably be threatened with excommunication; this may well account for the fact that knowledgeable persons were not called as witnesses during the hearings before the Court of Common Pleas, whose testimony would, your petitioner devoutly believes have established the mental incapacity of Michael E. Kehoe to make out his purported will.

Just one example of such subtle influence will, your petitioner believes, be revealed by his next door neighbor of many years, Mrs. Mabel Berger, who, for un-

explained reasons, was not called as a witness, but whose detailed testimony would undoubtedly have convinced the Court of Common Pleas of Michael Kehoe's mental inability to realize the contents of his purported will. Furthermore your Petitioner contends that the claim of this neighbor, Mrs. Mabel Berger, for services rendered the Kehoes at 5039 Ralph Avenue, Cincinnati, Ohio and subsequent settlement reveals the need for constant supervision.

If Michael E. Kehoe, (mentally ill for years, in the opinion of many witnesses and neighbors, and obviously preoccupied with his "Beer Drinking Cronies," as well as in his daily attendance at Mass) was not under undue influence in the execution of his purported will, as your petitioner has contended, then, it is believed, that such further facts would necessarily reveal that he, too, was a part of the conspiracy, whereby such successive estates gradually were given away and finally bequeathed to seven Catholic institutions and to the Reverend William Shaw with substantial benefits "milked off" to their associated attorneys, including those involved in the administration of the estate of Michael E. Kehoe, to the exclusion, almost, of the only legal and natural heir, your petitioner; as well as with complete disregard for the welfare of the petitioner's four grandchildren—the only third generation grandchildren of the 11 Kehoes.

During the course of the hearing of the probate of the Estate of Lucy Kehoe there will be more convincingly revealed the long-time subtle influence of Father William Shaw (an alleged cousin of the 11 Kehoes) and of Charles C. Boyle, (attorney, who drafted the wills of Alice, Phoebe and Michael E. Kehoe, although for some as yet unexplained reason he did not do so

as to the substantial estate of Lucy Kehoe) in channelling the assets of the three Kehoe sisters, Lucy, Alice and Phoebe Kehoe, as well as of the last survivor of the 11 Kehoe brothers and sisters, Michael E. Kehoe, into various Roman Catholic institutions, during their lifetime and in their alleged wills.

Your petitioner recently learned that no tax was ever paid as to the substantial estate of Lucy Kehoe, which probably amounted to more than $20,000.00 and which was probably maneuvered into the successive estates of Alice, Phoebe and Michael Kehoe. It will probably also be brought out that U.S. Treasury and Savings bonds which had been owned by Lucy Kehoe, while she lived in Cynthiana, Kentucky, may have been illegally transferred into Ohio and into the estate of Michael E. Kehoe.

Such hearings will, your petitioner believes, bring out the facts that:

(a) in the spending trust established in 1935 by James Kehoe, for the benefit of his only other nephew, John G. Fischer, it was specified that in the event of the death of said John G. Fischer, the same $23,000.00 trust fund (still intact at the time of the death of John G. Fischer) should be divided among the three sisters and John and Michael E. Kehoe, and further that in the event of their deaths prior to the death of John G. Fischer, any remaining balance should thereafter be turned over to his only remaining nephew, Thomas Kehoe, your petitioner, or in the event of his death, leaving children, then such child or children—thus indicating the desire of the most wealthy of the Kehoe family

that the bulk of his estate should ultimately be turned over to his legal heirs—your petitioner being the only remaining natural and legal heir;

(b) most of the assets acquired financially by Michael E. Kehoe, were acquired originally from the estates of his two brothers, James and John Kehoe, successively through the three sisters, Lucy, Alice and Phoebe, estimated roughly at $80,000.00.

Your petitioner devoutly believes that after the disclosure of all of such intervening circumstances and facts—coupled with the statements in the original petition—the Court will concur with the petitioner's contention that the purported will of Michael E. Kehoe should be declared as null and void.

In view of all of these probabilities and possibilities, for proving conspiracy, fraud, deceit and undue influence, pertaining to Michael E. Kehoe and to his three predeceased sisters and their respective assets and estates, it is respectfully urged by your petitioner that the Court set aside its previous denial for a requested Writ of Certiorari and that it postpone its decision relative thereto, until after the records of the hearings as to the adimnistration of the Estate of Lucy Kehoe shall have been concluded and presented to this Court, and that further proceedings as to the administration of the Estate of Michael E. Kehoe be ordered held in abeyance until the further decision of this Court.

Pursuant to Rule 58, I hereby certify that the foregoing Petition for Rehearing is presented in good faith and not for delay and is restricted to the grounds for the reasons set forth in this Petition for Rehearing,

as well as in the Petition and Memorandum Reply previously filed, on the basis of which a Rehearing and Certiorari is requested.

Respectfully submitted,

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